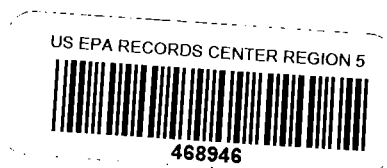


E6
09/12/97

SEP 12 1997



R-19J

Honorable Carl Levin
United States Senator
Federal Building
110 Michigan Avenue
Grand Rapids, MI 49503

Dear Senator Levin:

This letter responds to your letter dated August 15, 1997, inquiring about a letter you received from the City of Albion, dated August 5, 1997, concerning the Albion-Sheridan Township Landfill Superfund Site ("Site").

The United States Environmental Protection Agency ("U.S. EPA") considers the City of Albion ("the City") an "operator" of the Site, and therefore considers the City liable for response costs incurred or to be incurred in responding to the release or threat of release of hazardous substances from the Site. As an "operator", the City may also be liable for civil penalties for not complying with an order from U.S. EPA, requiring the City to clean up the Site.

The basis for U.S. EPA's belief that the City was an "operator" at the Site during the time of disposal includes facts which show that the City actively controlled the operations of the Site. Those facts include, but are not limited to, the fact that the City set landfill dumping fees, determined the hours of operation for the landfill, and determined the types of waste to be accepted into the landfill. The City also corresponded with local and State government agencies in an effort to keep the landfill open and operating despite concerns from the State that the landfill would cause water contamination.

In its August 5, 1997, letter to you, the City claims that the U.S. EPA Region 5 office referred this matter to the U.S. Department of Justice to preempt "congressional participation in any negotiations or settlement meetings" and thereby "prevents [the City] from receiving an independent evaluation and determination of [its] claims . . ." To the contrary, U.S. EPA makes decisions on referrals solely based on its good faith assessment of the facts.

U.S. EPA referred this matter to the Department of Justice to recover costs incurred at the Site, and to seek a penalty from the City for its failure to comply with a cleanup order. The timing of the referral to the Department of Justice is part of U.S. EPA's regular administration and management regarding recovery of Superfund costs. In any event, the referral in this case was

signed several weeks before U.S. EPA received your May 8, 1997, letter to Ms. Carol Browner, Administrator of U.S. EPA.

The referral of this matter does not prevent us from keeping your office apprised of the status of the matter. The City has been afforded the opportunity for a meeting with U.S. EPA and the Department of Justice, which we hope they will accept.

Also, as you know, the U.S. District Court will have jurisdiction over claims and defenses with respect to liability in this case. After a complaint is filed, and assuming a settlement is not reached between the parties, the District Court will determine whether the City's defenses regarding liability are valid.

If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely yours,

/s/ MICHELLE D. JORDAN

David A. Ullrich
Acting Regional Administrator

On TOP

SIGN-OFF FOR THE OFFICE OF REGIONAL COUNSEL									
	Aut. Atty.	Sec. Secy.	Sec. Chief	Br. Secy.	Branch Chief	RC/DRC Secy.	DRC	RC	Other
Init.	<i>[Signature]</i>		<i>Pm</i>	<i>EW</i>	<i>MB</i>			<i>[Signature]</i>	
Date	<i>9/4/97</i>		<i>9/8/97</i>	<i>9/8</i>	<i>9/11/97</i>			<i>9/11/97</i>	

bcc: ORA w/Control Slip/R-19J
 M. Canavan/R-19J
 H. Valetkevitch/R-19J
 ORA Reading File
 K. Lindland/C-29A
 C. Klebenow w/Control Slip/C-29A
 E. Woods w/Control Slip/C-29A

SEP 12 1997

/s/ MICHELLE D. JORDAN

ye 9/12

CARL LEVIN
MICHIGAN

RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-8221

COMMITTEES:
ARMED SERVICES
GOVERNMENTAL AFFAIRS
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510

August 15, 1997

Mr. David Ulrich
Acting Region V Administrator
77 W. Jackson Blvd.
Chicago, IL 60604

Dear Mr. Ulrich:

I am writing regarding the Albion-Sheridan Landfill Superfund Site.

Enclosed you will find a copy of correspondence from Lewis Steinbrecher, Albion City Manager.

I would appreciate you looking into this matter for me. Please address any response to my Grand Rapids office listed below.

Thank you for your cooperation.

Sincerely,



Carl Levin

Enclosure

STATE OFFICES

ALPENA
FEDERAL BLDG., RM. 100
148 WATER STREET
ALPENA, MI 49707
(617) 354-6820

DETROIT
477 MICHIGAN AVE.
ROOM 1860
DETROIT, MI 48226
(313) 226-8020

ESCANABA
523 LORINGTON
SUITE 300
ESCANABA, MI 49829
(800) 788-0052

GRAND RAPIDS
FEDERAL BUILDING
110 MICHIGAN AVE., N.W.
GRAND RAPIDS, MI 49505
(616) 486-2891

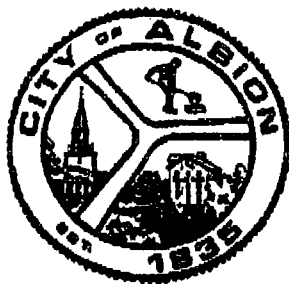
LANSING
1810 MICHIGAN NATIONAL TOWER
124 WEST ALLEGAN
LANSING, MI 48203
(517) 377-1509

SAGINAW
COMMERCE CENTER
301 E. GENESEE
SAGINAW, MI 48607
(517) 754-2484

SOUTHGATE
16100 NORTHLAKE RD.
ROOM 127
SOUTHGATE, MI 48195
(313) 285-8598

TRAVERSE CITY
207 GRANDVIEW PARKWAY
SUITE 104, P.O. Box 4440
TRAVERSE CITY, MI 49684
(616) 947-8880

WARREN
30600 VAN DYKE
SUITE 206
WARREN, MI 48093
(810) 573-0145



City of Albion

William L. Rieger Municipal Building
112 West Cass Street • Albion, Michigan 49224
(517) 629-5535 • Fax (517) 629-2238

RECEIVED AUG 7 1997

To: Chris Moller

2pgs
fr: Paul Troost

KIM H. TUNNICLIFF
Mayor

August 5, 1997

LEWIS J. STEINBRECHER
City Manager

Honorable Carl Levin
United States Senator
Senate Office Building
Washington, D. C. 20510

RE: Albion-Sheridan Township Landfill "Superfund" Site

Dear Senator Levin:

The City of Albion is very appreciative of your assistance to date in trying to facilitate a meeting with high level representatives from the U. S. Environmental Protection Agency ("EPA") in Washington, D. C. Unfortunately, even with your assistance, not only has the City not been able to finalize a meeting with EPA officials, the City has now received notice from the U. S. Department of Justice that it is preparing to bring court action against us in the Albion-Sheridan Township Landfill Site matter.

I believe the EPA Regional office in Chicago referred this matter to the Justice Department after your involvement to help meet with EPA officials in Washington. The EPA Regional Office has also denied our Freedom of Information Act request to learn the date upon which EPA referred the matter to the Justice Department. I am deeply concerned that the EPA may very well have referred this matter to the Justice Department after our February 24, 1997 meeting with Paul Troost from your staff and perhaps even after your May 8, 1997 letter to Ms. Carol Browner on the City's behalf requesting a meeting to discuss Region V's enforcement of the City's alleged involvement in the operation of this landfill. By referring this matter to the U. S. Department of Justice, the EPA Regional Office has preempted congressional participation in any negotiations or settlement meetings, and in effect, prevents us from receiving an independent evaluation and determination of our claims that the City of Albion was not an operator of this landfill in contrast to the allegations brought forth by the EPA Regional Office.

Senator Levin, 8/5/97, Page 2 of 2

It is very disturbing to think that the EPA attorney in Chicago assigned to this case would undermine your efforts to help the City of Albion in receiving a fair and impartial review of the facts in this matter. I am not certain if a meeting with EPA officials in Washington has any value at this time, given these unexpected and troubling turn of events.

The City of Albion respectfully asks for your assistance to inquire as to what is going on within EPA for these circumstances to have evolved so quickly and to determine the date upon which EPA referred this matter to the U. S. Department of Justice. Enclosed please find a copy of the letter recently received from the U. S. Department of Justice.

Thank you for your kind attention to and favorable consideration of this request Senator Levin, it is greatly appreciated.

Sincerely,



Lewis J. Steinbrecher
City Manager

LJS:mdj

cc: Mayor Kim H. Tunnicliff

Members of the Albion City Council

Mark M. Davis, Varnum, Riddering, Schmidt & Howlett

CONTROLLED CORRESPONDENCE

OFFICE OF THE REGIONAL ADMINISTRATOR (R-19J)

From: HON. CARL LEVIN (MI)

Control Number: ORAC-1581

Date Received: 08/28/97

Due Date.....: 09/12/97

Extension.....: / /

Interim.....: / /

Final Due Date: 09/12/97

Subject: ALBION-SHERIDAN LANDFILL SF SITE

Assigned To: SF ORC

Date Assigned: 08/28/97

Action: PREPARE RESPONSE

Due To Div.:

Sign. Req.: Y

SIGNATURE: RA

Signature Date: / /

COURTESY COPIES:

- 1) ORA W/CONTROL SLIP
- 3) H. VALETKEVITCH

- 2) M. CANAVAN
- 4) ORA READING FILE

Instructions: SAME CONSTITUENT LTR AS ORAC-1573 FROM SEN. ABRAHAM. SAME
RESPONSE SHOULD BE USED FOR BOTH LTRS. ADDRESS RESPONSE TO THE
GRAND RAPIDS DISTRICT OFFICE AS REQUESTED.

COORDINATE EXTENSION REQUESTS WITH
DIVISION DIRECTOR'S SECRETARY.

*Multi-Media I
Section 4
Landlord
9/2/97*